

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

NOV 3 2006

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

RECEIVED FOR FILING, CLERK OF COURT

ADAM R. BENAVIDES, JAMES DUFFY, §
FRANCO TAIBI, WILLIAM B. §
ALIMOVIC, EDWARD CATALANO, §
CELESTE EVANGELISTA, IVETTE §
LAMA, RICARDO S. LIDDIE, THOMAS §
MCMAHON, EDWARD SPANDONI, §
MICHAEL ULLMAN and MICHAEL §
DUPOUX, on Behalf of Themselves and §
Others Similarly Situated §
Plaintiffs, §

vs. §

HOME DEPOT USA, INC., Individually §
and d/b/a THE HOME DEPOT §
Defendant. §

CIVIL ACTION NO. H-06-0029
[FLSA "Collective" Action]

Jury Trial Demanded

**AGREED MOTION TO DISMISS PLAINTIFFS' CLAIMS
WITHOUT PREJUDICE**

COME NOW, ADAM R. BENAVIDES, JAMES DUFFY, FRANCO TAIBI, WILLIAM B. ALIMOVIC, EDWARD CATALANO, CELESTE EVANGELISTA, IVETTE LAMA, RICARDO S. LIDDIE, THOMAS MCMAHON, EDWARD SPANDONI, MICHAEL ULLMAN and MICHAEL DUPOUX (collectively "Plaintiffs"), and move for dismissal of their claims in the above-styled and numbered cause, without prejudice to re-filing. All costs shall be borne by the party incurring same. Defendant does not opposing the filing of this Motion to Dismiss.

WHEREFORE, PREMISES CONSIDERED, the foregoing Plaintiffs desire to dismiss their claims against the Defendant and respectfully request that this Court grant their Motion to Dismiss Without Prejudice.

Respectfully submitted,

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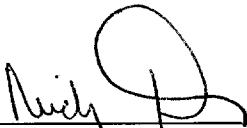
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CERTIFICATE OF SERVICE

I certify that on the 5th day of November 2006 a true copy of *Agreed Motion to Dismiss Plaintiffs' Claims Without Prejudice* has been served as follows:

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